

Office of the Secretary, HUD

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under a statute, Executive order (other than Executive Orders 12549 and 12689) or other authority. Examples of disqualifications include persons prohibited under—

(a) The Davis-Bacon Act (40 U.S.C. 276(a));

(b) The equal employment opportunity acts and Executive orders; or

(c) The Clean Air Act (42 U.S.C. 7606), Clean Water Act (33 U.S.C. 1368) and Executive Order 11738 (3 CFR, 1973 Comp., p. 799).

§ 24.945 Excluded or exclusion.

Excluded or exclusion means—

(a) That a person or commodity is prohibited from being a participant in covered transactions, whether the person has been suspended; debarred; proposed for debarment under 48 CFR part 9, subpart 9.4; voluntarily excluded; or

(b) The act of excluding a person.

§ 24.947 Hearing officer.

Hearing officer means an Administrative Law Judge or Board of Contract Appeals Judge authorized by HUD's Secretary or by the Secretary's designee, to conduct proceedings under this part.

[68 FR 66596, Nov. 26, 2003]

§ 24.950 Excluded Parties List System

Excluded Parties List System (EPLS) means the list maintained and disseminated by the General Services Administration (GSA) containing the names and other information about persons who are ineligible. The *EPLS* system includes the printed version entitled, "List of Parties Excluded or Disqualified from Federal Procurement and Nonprocurement Programs," so long as published.

§ 24.955 Indictment.

Indictment means an indictment for a criminal offense. A presentment, information, or other filing by a competent authority charging a criminal offense shall be given the same effect as an indictment.

§ 24.960 Ineligible or ineligibility.

Ineligible or ineligibility means that a person or commodity is prohibited

from covered transactions because of an exclusion or disqualification.

§ 24.965 Legal proceedings.

Legal proceedings means any criminal proceeding or any civil judicial proceeding, including a proceeding under the Program Fraud Civil Remedies Act (31 U.S.C. 3801–3812), to which the Federal Government or a State or local government or quasi-governmental authority is a party. The term also includes appeals from those proceedings.

§ 24.970 Nonprocurement transaction.

(a) *Nonprocurement transaction* means any transaction, regardless of type (except procurement contracts), including, but not limited to the following:

- (1) Grants.
- (2) Cooperative agreements.
- (3) Scholarships.
- (4) Fellowships.
- (5) Contracts of assistance.
- (6) Loans.
- (7) Loan guarantees.
- (8) Subsidies.
- (9) Insurances.
- (10) Payments for specified uses.
- (11) Donation agreements.

(b) A nonprocurement transaction at any tier does not require the transfer of Federal funds.

§ 24.975 Notice.

Notice means a written communication served in person, sent by certified mail or its equivalent, or sent electronically by e-mail or facsimile. (See § 24.615.)

§ 24.980 Participant.

Participant means any person who submits a proposal for or who enters into a covered transaction, including an agent or representative of a participant.

§ 24.985 Person.

Person means any individual, corporation, partnership, association, unit of government, or legal entity, however organized.

§ 24.990 Preponderance of the evidence.

Preponderance of the evidence means proof by information that, compared with information opposing it, leads to

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the conclusion that the fact at issue is more probably true than not.

§ 24.995 Principal.

Principal means—

(a) An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or

(b) A consultant or other person, whether or not employed by the participant or paid with Federal funds, who—

(1) Is in a position to handle Federal funds;

(2) Is in a position to influence or control the use of those funds; or,

(3) Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

(c) A person who has a critical influence on, or substantive control over, a covered transaction, whether or not employed by the participant. Persons who have a critical influence on, or substantive control over, a covered transaction may include, but are not limited to:

(1) Loan officers;

(2) Staff appraisers and inspectors;

(3) Underwriters;

(4) Bonding companies;

(5) Borrowers under programs financed by HUD or with loans guaranteed, insured, or subsidized through HUD programs;

(6) Purchasers of properties with HUD-insured or Secretary-held mortgages;

(7) Recipients under HUD assistance agreements;

(8) Ultimate beneficiaries of HUD programs;

(9) Fee appraisers and inspectors;

(10) Real estate agents and brokers;

(11) Management and marketing agents;

(12) Accountants, consultants, investment bankers, architects, engineers, and attorneys who are in a business relationship with participants in connection with a covered transaction under a HUD program;

(13) Contractors involved in the construction or rehabilitation of properties financed by HUD, with HUD insured loans, or acquired properties, in-

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cluding properties held by HUD as mortgagee-in-possession;

(14) Closing agents;

(15) Turnkey developers of projects financed by or with financing insured by HUD;

(16) Title companies;

(17) Escrow agents;

(18) Project owners;

(19) Administrators of hospitals, nursing homes, and projects for the elderly financed or insured by HUD; and

(20) Developers, sellers or owners of property financed with loans insured under title I or title II of the National Housing Act.

[68 FR 66544, 66594, 66596, Nov. 26, 2003]

§ 24.1000 Respondent.

Respondent means a person against whom an agency has initiated a debarment or suspension action.

§ 24.1005 State.

(a) *State* means—

(1) Any of the states of the United States;

(2) The District of Columbia;

(3) The Commonwealth of Puerto Rico;

(4) Any territory or possession of the United States; or

(5) Any agency or instrumentality of a state.

(b) For purposes of this part, *State* does not include institutions of higher education, hospitals, or units of local government.

§ 24.1010 Suspending official.

(a) *Suspending official* means an agency official who is authorized to impose suspension. The suspending official is either:

(1) The agency head; or

(2) An official designated by the agency head.

(b) [Reserved]

§ 24.1015 Suspension.

Suspension is an action taken by a suspending official under subpart G of this part that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary